UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JESSIE McINTYRE,

Plaintiff,

-vs-

DECISION & ORDER

16-CV-6408

CITY OF ROCHESTER, et al.,

Defendants.

Plaintiff Jessie McIntyre has filed this action under 42 U.S.C. § 1983, alleging violations of his federal constitutional rights by several officers of the Rochester (N.Y.) Police Department. Count I of the amended complaint (Dkt. #8) is brought against several individual officers. Count II is brought against the City of Rochester ("City") and Chief of Police Michael Ciminelli.

Defendants have filed a motion to dismiss Count II. (Dkt. #10.) Plaintiff's attorney has informed the Court by letter (Dkt. #12) that he does not oppose the motion to dismiss Count II. Subsequent to the Court's receipt of that letter, the individual officer defendants filed an answer to Count I. (Dkt. #13.)

Accordingly, the motion to dismiss Count II is granted, and the case will proceed as to Count I only.

CONCLUSION

The motion (Dkt. #10) filed by defendants City of Rochester and Michael Ciminelli to dismiss Count II of the amended complaint is granted, and Count II is dismissed. The action will proceed on Count I only, against the individual defendants named in that count.

IT IS SO ORDERED.

Dated: March 6, 2017
Rochester, New York

David G. Larimer
United States District Judge